

Appln. No. 10/722,847  
Docket No. 14XZ130600/GEM-0104

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## REMARKS / ARGUMENTS

### Status of Claims

Claims 1-17 are pending in the application with Claims 1-16 standing rejected. Applicant submits that no claims have been amended, and Claim 17 has been added, therefore Claims 1-17 are left for consideration by the Examiner.

Applicant respectfully submits that in this fully responsive reply the rejections under 35 U.S.C. §103(a) have been traversed, no new matter has been entered, and the subject application is in condition for allowance. Therefore, reconsideration of the pending rejections and favorable allowance of the subject application are earnestly solicited.

### Rejections Under 35 U.S.C. §103(a)

#### **Claims 1, 2, 6, 13, and 16**

Claims 1, 2, 6, 13, and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Chevassus et al. (U.S. Patent No. 6,342,878, hereinafter Chevassus) in view of Lee (U.S. Publication No. 2003/0016417 A1, hereinafter Lee). Applicant respectfully traverses this rejection for the following reasons.

Chevassus is directed to an input peripheral for a computer with automatic switching between three-dimensional (3D) and two-dimensional (2D) operating modes (see Chevassus, Abstract). More particularly, Chevassus discloses a mobile casing 10 including an electromagnetic sensor 16 to determine a position of the mobile casing 10 in relation to a fixed or stationary source 17 (see Chevassus, FIG. 3; and col. 4, ll. 59-65). Chevassus particularly describes a user's interaction with the casing 10 to include movement of the entire casing 10 in a three-dimensional space or volume. For example, a user of the casing 10 would move the casing 10 within a volume, and the electromagnetic sensor 16 would detect the position of the casing 10 (see Chevassus, col. 4, ll. 33-35). Further, the user would place the casing 10 onto a surface 12 for automatic switching

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between the 3D interaction described hereinabove and a new 2D interaction described as identical to a conventional mouse device (see Chevassus, col. 4, ll. 40-45).

Therefore, Chevassus discloses a conventional mouse with a 3D interaction comprised of moving the entire mouse in a three-dimensional volume, and automatic switching between 3D and 2D interactions.

In the Office Action mailed April 12, 2007 (hereinafter termed 'Office Action'), the Examiner contends that the 3D and 2D interaction of Chevassus' conventional mouse discloses each and every element of claim 1, except "direct manual input" (see Office Action, page 2). Applicant respectfully disagrees that Chevassus discloses all that the Examiner alleges.

As described above and as disclosed by Chevassus, the casing 10 is moved relative to a stationary position sensor. Further, the location of the casing 10 is detected relative to the fixed position sensor for 3D interaction. This is simply a disclosure of position tracking and differs from embodiments of the present invention. For example, as set forth in the specification in at least paragraph [0025], "[t]he device comprises a head 12a and means 12b for forming sensors ... which are suitable for detecting six shift components (three translation components and three angular components) imposed by the user on the head 12a of the device" (see Specification, para. [0025]). Such is clearly different from position tracking in a volume as disclosed by Chevassus. Therefore, Chevassus does not disclose or suggest "**means for** transmitting command information to **means for** processing as a function of shift and/or efforts applied by a user on the device" as recited in independent claim 1 (emphasis added).

Furthermore, as noted above, the Examiner admits that Chevassus does not disclose or suggest "means for actuating by direct manual input by a hand of the user to control the means for processing to switch from one operating mode where the gripping element is used for manipulating images" as recited in independent claim 1. However, the Examiner asserts that Lee discloses such a feature. Applicants respectfully submit that Lee's disclosure destroys the intent and purpose of Chevassus' disclosure, and therefore cannot be used in combination with Chevassus.

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Lee is directed to a wireless pointing and remote-controlling device, such as a briefing pointer device (see Lee, Abstract). Lee discloses a selection switch 15, located on a casing 1, to select between a first operating mode, a second operating mode, and a third mode described as a power-off mode (see Lee, para. [0030]-[0031]). Thus a user must use the selection switch on the device to power on (i.e. turn on) the device, thereby requiring manual interaction for switching between modes. However, Chevassus discloses a need for automatic switching. In fact, Chevassus goes so far as to assert that the main purpose of the disclosure is to provide a device capable of automatic switching, with no user input (see Chevassus, col. 2, ll. 21-28).

Therefore, given the distinct and differing purposes and requirements of Chevassus and Lee, these references are not combinable. Furthermore, given the particular disclosure of Chevassus, requiring automatic switching without user input, it is respectfully submitted that Chevassus in fact teaches away from the combination asserted by the Examiner.

For all of the reasons given above, Chevassus and Lee, taken alone or in combination, do not disclose or suggest the limitations of claim 1. Further, as set forth above, Chevassus teaches away from the asserted combination, and therefore cannot be used to establish a prima facie case of obviousness against independent claim 1. Applicant submits that Claims 2 and 6 are also patentable, at least by virtue of their dependency upon independent claim 1.

Regarding claim 13, it is respectfully submitted that, as argued above, Chevassus is directed to position tracking, and therefore fails to disclose or suggest “**means for linking by which the peripheral device transmits to the means for processing command information as a function of shift and/or efforts applied by the user on the device**” as recited in independent claim 13 (emphasis added).

Furthermore, 3D interaction as disclosed by Chevassus is actual 3D position movements of the entire casing 10. Such is a disclosure of three-dimensional movements of the casing and *not manipulation of three-dimensional images*. Lee is directed to pointing devices for briefings, and does not make up for this deficiency. Therefore

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Chevassus and Lee do not disclose or suggest “the assembly comprising means actuated by direct manual input by a hand of the user to control the means for processing to switch to another operating mode for manipulating 3D images from the one operating mode where the device is used to control 2D navigation on the means for display and vice versa” as recited in independent claim 13 (emphasis added).

Therefore, for all of the reasons given above, Chevassus and Lee, taken alone or in combination, do not disclose or suggest the limitations of claim 13. Further, as proven above, Chevassus teaches away from the asserted combination, and therefore cannot properly be applied to establish a prima facie case of obviousness against independent claim 13.

Regarding claim 16, it is respectfully submitted that, as argued above, Chevassus is directed to 3D position tracking, and therefore fails to disclose or suggest “means for transmitting command information to means for processing as a function of shift and/or efforts applied by a user on the device” as recited in independent claim 16 (emphasis added).

Therefore, for all of the reasons given above, Chevassus and Lee, taken alone or in combination, do not disclose or suggest the limitations of claim 16. Further, as set forth above, Chevassus teaches away from the asserted combination, and therefore cannot properly be applied to establish a prima facie case of obviousness against independent claim 16.

### Claims 3-5

Claims 3-5 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Chevassus in view of Lee and further in view of Reid et al. (U.S. Patent No. 6,853,365, hereinafter Reid).

As argued above, Chevassus and Lee fail to disclose or suggest the limitations of independent claim 1. Furthermore, Applicant submits that even if Chevassus, Lee, and Reid were combinable (which Applicant does not admit), the resulting combination would still not disclose or suggest the limitations of claim 1, as Reid fails to cure the

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deficiencies of Chevassus and Lee discussed above. Moreover, as set forth above, Chevassus particularly teaches away from the asserted combination. Therefore, Applicant submits that claim 1 is patentable over Chevassus, Lee, and Reid, and that claims 3-5 are patentable at least by virtue of their dependency upon independent claim 1.

#### **Claims 7-12**

Claims 7-12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Chevassus in view of Lee and further in view of Zagnoev (U.S. Publication No. 2003/0090394, hereinafter Zagnoev).

As argued above, Chevassus and Lee fail to disclose or suggest the limitations of independent claim 1. Furthermore, Applicant submits that even if Chevassus, Lee, and Zagnoev were combinable (which Applicant does not admit), the resulting combination would still not disclose or suggest the limitations of claim 1, as Zagnoev fails to cure the deficiencies of Chevassus and Lee discussed above. Moreover, as set forth above, Chevassus particularly teaches away from the asserted combination. Therefore, Applicant submits that claim 1 is patentable over Chevassus, Lee, and Zagnoev, and that claims 7-12 are patentable at least by virtue of their dependency upon independent claim 1.

#### **Claims 14 and 15**

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chevassus in view of Lee and further in view of Bonanni et al. (U.S. Patent No. 6,400,157, hereinafter Bonanni).

As argued above, Chevassus and Lee fail to disclose or suggest the limitations of independent claim 13. Furthermore, Applicant submits that even if Chevassus, Lee, and Bonanni were combinable (which Applicant does not admit), the resulting combination would still not disclose or suggest the limitations of claim 13, as Bonanni fails to cure the deficiencies of Chevassus and Lee discussed above. Moreover, as set forth above, Chevassus particularly teaches away from the asserted combination. Therefore, Applicant

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submits that claim 13 is patentable over Chevassus, Lee, and Bonanni, and that claims 14-15 are patentable at least by virtue of their dependency upon independent claim 13.

#### **Regarding new Claim 17**

Applicant has added new claim 17 to capture previously disclosed but unclaimed subject matter. No new matter has been added as support may be found in the application as originally filed, in at least paragraph [0003] for example. In view of the comments set forth above regarding the allowability of Claim 1, Applicant submits that Claim 17 is allowable at least by virtue of its dependency upon Claim 1, and respectfully requests notice thereof.

#### **Summary of Arguments of Pending Rejections**

In summary, Applicant respectfully submits that the obviousness rejection based on at least Chevassus and Lee is improper as the References fail to teach or suggest each and every element of the instant invention in such a manner as to perform as the claimed invention performs. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

Furthermore, Chevassus discloses that the main purpose of Chevassus' disclosure is to provide automatic switching of modes, and therefore teaches away from the asserted combination of Chevassus and Lee. As such, the alleged combinations of Chevassus and Lee cannot properly be applied to establish a prima facie case of obviousness to support the pending rejections.

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**CONCLUSION**

In view of above remarks, reconsideration of the outstanding rejections and allowance of pending claims 1-16 is respectfully requested.

If the Examiner believes that communication with Applicant's Representatives would assist in advancing this case to allowance, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 50-2513.

In the event that an extension of time is required, or may be required in addition to



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CONCLUSION

In view of above remarks, reconsideration of the outstanding rejections and allowance of pending claims 1-16 is respectfully requested.

If the Examiner believes that communication with Applicant's Representatives would assist in advancing this case to allowance, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 50-2513.

In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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